

ORDER BELOW EXH. 10 IN R.C.S. NO. 489/2018.

1] The present application is made by the plaintiff for appointment of court commissioner to measure the agricultural suit land block No. 310 admeasuring 00 H. 61 R. belonging to the plaintiff, situated within the precinct of village Vannali, Taluka Degloor. It is contended by the plaintiff that he is owner and possessor of the suit land and the defendants are adjacent land holders of the plaintiff. The defendants are trying to encroach upon the suit land by dismantling boundary mark. As such, they are causing disturbance to the peaceful possession of the plaintiff over the suit land. Therefore, in order to settle the dispute, the plaintiff urged for measurement of the suit land and fixation of boundaries by appointing Court Commissioner.

2] The suit is proceeded ex-parte against all the defendants.

3] Heard the learned advocate for the plaintiff. Perused 7/12 extract of agricultural land block No. 310 filed by the plaintiff on record. It shows that 00 H. 61 R land is standing in the name of plaintiff Digambar. Likewise, in the said block, certain land is standing in the name of present defendants.

4] Vide present application, it is alleged by the plaintiff that the defendants are trying to encroach upon the suit land by dismantling boundary mark. As such, they are causing disturbance to the peaceful possession of the plaintiff over the suit land.

5] It appears from boundaries of the suit land given in plaint that the defendants are adjacent land holders of the plaintiff and there is dispute between boundary marks between them. It appears from 7/12 extract of block No. 310 that land of the plaintiff and land of some of the defendants situated in same block number and they are adjacent land holders of each other. In such circumstances, possibility of frequent dispute between the parties over boundaries, cannot be ruled out.

6] Therefore, it is necessary to have a factual and present position on record regarding the lands of both parties, having regard to the nature of controversy between the parties. It will be helpful for the court in deciding the real dispute between the parties. Therefore, in view of Order XXVI Rule 9 of Civil Procedure Code, it deems a local investigation to be requisite and proper for the purpose of elucidating the matter in dispute between the parties.

7] Thus, Deputy Superintendent of Land Record needs to be appointed as a Commissioner with direction to measure the agricultural suit land block No. 310 admeasuring 00 H. 61 R. belongs to the plaintiff situated within the precinct of village Vannali, Taluka Degloor to ascertain four boundaries of the said land as it will be helpful for the court in deciding the matter in dispute between the parties. Thus, the following order :-

ORDER

- a) Application is allowed.
- b) The Deputy Superintendent of Land Record, Degloor is hereby appointed as Court Commissioner.
- c) He shall measure the agricultural suit lands block No. 310 admeasuring 00 H. 61 R. belongs to the plaintiff, situated within the precinct of village Vannali, Taluka Degloor along with the land holders on the four boundaries of the above land by giving exact position and ascertaining four boundaries of the said land.
- d) The commissioner shall follow the procedure of measurement as prescribed by rules, strictly.
- e) Deputy Superintendent of Land Record or Superintendent of land record and all higher level officers, should make available requisite public record and or certified copies thereof for execution of commission.
- f) The Commissioner shall fix the boundaries of the suit land and submit his detailed report along with map by showing encroachment if any, to this Court within two months.
- g) Cost of commission shall be borne by the plaintiff.
- h) The plaintiff is directed to deposit the necessary expenses for measurement of the said land in the office of the Deputy Superintendent of Land Record, Degloor, forthwith.
- i) Issue writ accordingly.

Degloor.
Date :- 25/04/2019.

(V . V. Khulape)
Jt. Civil Judge, J. D., Degloor.